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SURFACE TRANSPORTATION BOARD

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

December 19, 2006

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Mortgage, entered into as of December 19, 2006, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Net Railcar Lease being filed with the Board under Recordation Number 26712.

The name and address of the party to the enclosed document are:

Debtor: Babcock & Brown Rail Funding LLC  
885 Second Avenue, 49th Floor  
New York, NY 10017

[Secured Party: Bayerische Hypo-Und Vereinsbank AG, Agent  
FPA 4 Lease/Asset Finance  
Am Tucherpark 1 (FPA)  
80538 Munich, Germany]

Mr. Vernon A. Williams  
December 19, 2006  
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A description of the railroad equipment covered by the enclosed document is:

20 covered hopper railcars: SWSX 60621 – SWSX 60640.

A short summary of the document to appear in the index is:

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$34.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alvord", with a long horizontal flourish extending to the right.

Robert W. Alvord

RWA/sem  
Enclosures

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**MEMORANDUM OF MORTGAGE**

SURFACE TRANSPORTATION BOARD


Memorandum of Mortgage, made and entered into as of December 19, 2006 between **BABCOCK & BROWN RAIL FUNDING LLC** (the "Debtor") and **BAYERISCHE HYPO-UND VEREINSBANK AG**, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "Secured Party"). Terms used in this instrument have the meanings assigned thereto in the Amended and Restated Security Agreement dated as of October 18, 2002 (as supplemented, including by Security Agreement Supplement No. 47 dated the date hereof, the "Security Agreement") between the Secured Party and the Debtor.

**WITNESSETH:**

The undersigned and the Secured Party have entered into the Security Agreement, by which the Debtor has granted a security interest in certain railroad equipment bearing reporting marks and road numbers as listed on Exhibit A attached hereto and in each lease referred to on Exhibit B attached hereto to the Secured Party in order to secure the Debtor's performance of its obligations as described in the Security Agreement.

IN WITNESS WHEREOF, the party hereto has caused this memorandum to be duly executed by its officer duly authorized as of the date and year first above written.

**BABCOCK & BROWN RAIL FUNDING  
 LLC**

By   
 Name: Ross Sullivan  
 Title: Vice President

STATE OF CALIFORNIA           )  
  ) ss.:  
COUNTY OF SAN FRANCISCO   )

On December 18, 2006, before me, Heidi Wagner, Notary Public,  
personally appeared Ross Sullivan, personally known to me to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he executed the same in his  
authorized capacity, and that by his signature on the instrument the person, or the entity upon  
behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

June 4, 2010



Heidi Wagner  
Notary Public

**Exhibit A  
to Memorandum of Mortgage**

**EQUIPMENT**

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
1	20	2006	3281 CF Covered Hoppers, 286,000 GRL, AAR Car Type Code C112, built in 2006 by Trinity North American Freight Car, Inc.	SWSX 60621-60640, inclusive.	None

**LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS**

**Lease # 1**

Master Net Railcar Lease dated as of April 24, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc., to the extent the same relates to the Equipment described under "Lease #1" in Exhibit A hereto.

Schedule No. 03 to Master Net Railcar Lease dated as of October 17, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc., to the extent the same relates to the Equipment described under "Lease #1" in Exhibit A hereto.

Memorandum of Net Railcar Lease dated as of October 17, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc., in respect of the Equipment described under "Lease #1" in Exhibit A hereto.

Certificates of Acceptance for Lease dated November 16, 2006, November 23, 2006 and November 24, 2006 from Superior Well Services, Inc. to Babcock & Brown Rail Funding LLC in respect of the Equipment described under "Lease #1" in Exhibit A hereto.

Letter Agreement for One Thousand (1000) Covered Hopper Rail Cars made and entered into as of August 19, 2005, by and between Trinity North American Freight Car, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption 'Lease #1' in Exhibit A hereto.

Warranty Bill of Sale dated as of December 19, 2006, from Trinity North American Freight Car, Inc. to Babcock & Brown Rail Funding LLC and each certificate of inspection and/or acceptance executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in such Warranty Bill of Sale.

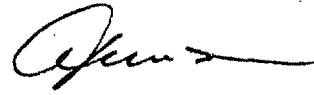
Each Warranty Bill of Sale from Trinity North American Freight Car, Inc. to Babcock & Brown Rail Funding LLC, and each certificate of inspection and/or acceptance executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in each such Warranty Bill of Sale, to the extent the same relates to the Equipment described under the caption "Lease #1" in Exhibit A hereto.

**CERTIFICATION**

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: \_\_\_\_\_

12/19/06



\_\_\_\_\_  
Robert W. Alvord